

Division of Construction
LABOR COMPLIANCE
ADVISORY



April 28, 2006

BACKGROUND

The work of transporting materials may be subject to state and/or federal prevailing wage law. State law applies when all requirements for a “public work” as defined by California Labor Code, Section 1720 are met. Federal law applies when federal funding, in whole or in part, is used to pay for contracts in excess of \$2,000 for construction, alteration, or repair of public works. In the event that a project is subject to both state and federal laws, and those laws are conflicting, the Department of Transportation (Department) enforces the higher legal standard.

The Department's approved labor compliance program is authorized to enforce state and federal prevailing wage laws, regulations, and requirements on all public works contracts that it awards. In the event that other entities award contracts for work on transportation systems or facilities owned and operated by the Department they are responsible for the enforcement of state prevailing wages. These entities must work directly with the California Department of Industrial Relations to correct state prevailing wage law violations. The Federal Highway Administration has delegated oversight responsibility to the Department for assurance that local agencies receiving federal-aid for transportation and related projects comply with all federal labor standards enforcement requirements.

POLICY

Trucking operations subject to prevailing wage requirements are categorized as on-hauling to a covered site, hauling within or between covered sites, or off-hauling from covered sites.

A. On-hauling: Hauling material to the site of work of a contract requires the prevailing wage to be paid to workers if:

- 1) The materials are hauled from a source dedicated to the public work site; or
- 2) The materials are hauled to the project site and immediately incorporated into the project.

B. Within or between public works sites: Hauling material within the project boundaries or between two or more covered sites requires the prevailing wage be paid to all workers employed by the contractor or subcontractor(s) in the execution of any contract for public work.

C. Off-hauling: Hauling material from a covered site requires the payment of prevailing wage if any of the following criteria apply:

- 1) The material being hauled is “refuse” in accordance with Section 1720.3 of the Labor Code.
- 2) The material being hauled is either done in a specific manner or hauled to a location specifically required by the contract.
- 3) The material is being hauled to another covered public works project.

D. Owner-operators: Bona fide owner-operators are not covered under prevailing wage requirements.

REFERENCES

US DOL Davis-Bacon Resource Book 11/2002

O.G. Sansone v. Department of Transportation

California Labor Code 2005, Section 1720.3

Department of Industrial Relations Determination Public Works Case No. 2004-023

INTENDED USE

This advisory originated in the California Department of Transportation and is intended only for the guidance and direction of the Department's staff involved in executing applicable federal and state prevailing wage and apprenticeship requirements.